

# State of South Dakota

## EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

268R0415

### HOUSE BILL NO. 1071

Introduced by: Representatives Engels, Cutler, Feinstein, Gibson, Hamiel, Hoffman, Hunt, Killer, Moser, Nygaard, Olson (Betty), Schlekeway, Sorenson, and Turbiville and Senators Jerstad, Abdallah, Bradford, Frysliie, Gant, Hanson (Gary), Merchant, Miles, Schmidt, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to parental liability for  
2 willful acts of a child and to revise the limitation on recovery.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-5-15 be amended to read as follows:

5 25-5-15. Any person, firm, association, private or public corporation, including the State of  
6 South Dakota and its political subdivisions, suffering damages to real, personal, or mixed  
7 property, or personal injury, through ~~the~~ any malicious and willful act ~~or acts~~ of a minor child  
8 ~~or children~~ under the age of eighteen years while residing with ~~their~~ the child's parents, ~~shall~~  
9 ~~have therefor~~ has a cause of action against and may recover ~~of from~~ the parents of such child  
10 ~~or children~~. In each case the amount of recovery against one or both of the parents ~~shall be~~ is  
11 limited to actual damages of ~~fifteen hundred~~ three thousand dollars and the taxable court costs,  
12 and does not apply to damages proximately caused through the operation of a motor vehicle by  
13 the minor child ~~or children~~. If the issue is disputed, any determination that a parent is not  
14 responsible for the full amount of actual damages and costs authorized by this section shall be



- 1 justified in a specific finding, in writing or on the record.